



NASA

CHIEF FOIA OFFICER REPORT

February 2013

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

ANSWER: Yes. NASA held a one-day FOIA training conference following the ASAP conference in March 2012. The NASA FOIA staff also attends a monthly VITS meeting to discuss FOIA issues, concerns, processing, etc.

Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

ANSWER: Yes. The majority of NASA FOIA staff were able to attend the ASAP FOIA Conference in March 2012.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

2. Did your agency make any discretionary releases of otherwise exempt information?

ANSWER: No

What exemptions would have covered the information that was released as a matter of discretion?

ANSWER: NA

3. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

ANSWER: NA

4. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

ANSWER: NASA FOIA staff process documents with the presumption of disclosure. NASA staff also updates, posts, communicates with the public on items of interest, initiatives, etc.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

ANSWER: Yes. The FOIA staff use an agency-wide tracking tool for all FOIA requests. This allows collaboration as well as provides a tool for ensuring consistency. They also use redaction software.

2. Do your FOIA professionals work with your agency's Open Government Team?

ANSWER: Yes. The Principal Agency FOIA Officer works with the team.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

ANSWER: Yes. The Principal Agency FOIA Officer worked with NASA HR staff to develop FOIA PDs that are applicable to the Agency and ensure the Centers are adequately supporting the FOIA program.

4. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.

ANSWER: The NASA FOIA staff participates in monthly VITS meetings to discuss processing issues, concerns, and any FOIA related questions. The FOIA have built a collaborative working team and regularly consult one-another to discuss FOIA requests and processing techniques. Although the FOIA program is decentralized, the Agency FOIA staff is unified and works closely together to improve on a consistent approach to responses. The success of the team approach has helped to streamline many business processes and ultimately reduce the backlog.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has posted this past year.

Agency staff regularly posts contract information, reports, a variety of records from current hot topics, records that provide background information on events in the news, Agency oversight, and new initiatives reports, documents, etc.

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

Yes.

3. If so, provide examples of such improvements.

NASA continues to receive accolades and awards for the media relations and interaction with the public. NASA is one of the top-rated Agencies for advancement in the use of technology, proactive releases of information and ensuring the information of high concern to the public is easily accessible on the website and through media, including TV, blogs, tweets, and news releases.

4. Describe any other steps taken to increase proactive disclosures at your agency.

NASA regularly releases information of interest to the public. NASA websites provide daily updated information that ultimately significantly reduces the public need to submit FOIA requests. Agency program offices take pride in ensuring the public is aware of new advancements in exploration, science, technology, education and math.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2013, as we did in 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

ANSWER: Yes

2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency?

ANSWER: Yes.

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

ANSWER: No

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

ANSWER: NA

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

ANSWER: No.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

ANSWER: Yes. We are looking into the technology.

Use of technology to facilitate processing of requests:

7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

ANSWER: YES.

8. If so, describe the technological improvements being made.

ANSWER: The FOIA staff use a document sharing tool when the files are too large to transmit. Regarding records searches, NASA maintains records in paper format and therefore cannot conduct only electronic searches for records. Referrals are occasionally transmitted electronically, but those referrals that are classified must be sent through the mail.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2012 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

- a. Does your agency utilize a separate track for simple requests?

ANSWER: Yes

b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

ANSWER: No. It was 25.3

c. If your agency does not track simple requests separately, was the average number of days to process non- expedited requests twenty working days or fewer?

ANSWER: NA. NASA uses a simple track.

2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.

- a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

ANSWER: Yes.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

ANSWER: NASA did not have a backlog of administrative appeals in either year.

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

ANSWER: Yes. The Agency closed all previously outstanding backlog requests. At the end of FY 12, the only requests open were received during FY 12.

- d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

ANSWER: NA. NASA did not have a backlog of administrative appeals.

3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?
b. Was the lack of a reduction in the request backlog caused by a loss of staff?
c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?
d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?
 - b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?
 - c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?
 - d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?
4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

ANSWER: NASA's oldest pending case did not lend itself to providing an interim response. When feasible, FOIA staff provides interim responses to requests.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

ANSWER: No

2. If so, what was the total number of times exclusions were invoked?

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic

ANSWER: This is the first time NASA has completed all outstanding cases prior to the current FY. In other words, the only open cases were those received during FY 12. After completing the FY 12 annual report, the oldest pending case was completed, therefore the oldest pending case by the beginning of November was received in April 2012. This has been a major accomplishment for NASA. FOIA staff are participating in monthly training, ensuring requests are properly addressed in accordance with the law, and ensuring searches are properly conducted. NASA hopes to have a new FOIA regulation published in FY 13 as well as a FOIA handbook for internal use by the FOIA staff. Additionally, by July 2012, the Principal Agency FOIA Officer, working with HR staff, developed and had approved FOIA PDs in compliance with the new 0306 FOIA series. This recognition of the FOIA staff as professionals, coupled with the improvements in the program, has been beneficial to the FOIA program as well as NASA.